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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/505,914	02/17/2000	Ronald A. Katz	245/249(6046-101D9)	7141

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12/04/2002

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EXAMINER

WOO, STELLA L

ART UNIT

PAPER NUMBER

2643

DATE MAILED: 12/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/505,914

Applicant(s)
Katz

Examiner
Stella Woo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Sep 26, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-30, 32-37, and 39-131 is/are pending in the application.
- 4a) Of the above, claim(s) 17-30, 32-37, and 39-96 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 97-131 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

1. Newly submitted claims 17-30, 32-37, 39-96 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Originally presented claims 17-53 were drawn to a commercial transaction communication system for selectively enabling video communications between members of plural groups with a format switch to effect video communication in a selected video format, classified in class 348, subclass 14.12. These originally presented claims 17-53 were first presented as claims 299-335 in parent application S. N. 08/189,405 and were cancelled to address a restriction requirement. They were identified by the examiner as Invention IV in the restriction requirement.

Newly submitted claims 17-30, 32-37, 39-96, as presented in the amendments by Applicant on May 17, 2002 and June 19, 2002, are drawn to a commercial transaction communication system which provides video from a video storage system, audio from an audio response unit, and text data from a data site to buyer and identifies an area of interest, classified in class 379, subclass 92.01. The inventions are related as subcombination disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, the originally presented claims 17-53 is directed to enabling video communications between a buyer and a vendor including full motion, real-time video using a camera to capture the image of the buyer or vendor and the exchange of commercial transaction data between the buyer and vendor. It does not connect

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multiple buyers with a data site, an audio response unit or an operator interface and does not selectively process communications based on an area of interest. The newly presented claims 17-30, 32-37, 39-96 do not recite full-motion, real-time video communication between a buyer and a vendor including a camera for capturing the image of the buyer or vendor or a format switch for effecting video communication in a selected video format.

Because these inventions are distinct for the reasons given above, have acquired a separate status in the art as shown by their different classification, and require different areas of search, restriction for examination purposes as indicated is proper.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 17-30, 32-37, 39-96 17-30, 32-37, 39-96 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

2.The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3.Claims 97-111, 114-129 are rejected under 35 U.S.C. 103(a) as being unpatentable over D'Agostino (USPN 5,606,496) in view of Smith (USPN 5,450,123) for the same reasons applied to claims 17-32, 35-51 in the Office action mailed May 8, 2001 and repeated below.

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D'Agostino discloses a commercial transaction communication system (Fig. 1) comprising:

video display systems (customer terminal 14 in Fig. 2A; representative terminal 12 in Fig. 2B; the customer terminal capable of operating in a video image display mode or a menu display mode (col. 6, lines 49-56);

an interconnect system (communication links 16, 18) to permit the exchange of commercial transaction data (credit card payment data; col. 7, lines 4-6, 65-67); and

a format switch (the representative uses an input device 46 to effect either a video image display or a menu display; col. 6, lines 47-56).

D'Agostino differs from claims 97-129 in that although it provides for transmitting a video image of the representative, it does not specify communicating a dynamic, full-motion video. However, Smith teaches the desirability of including a camera at representative terminal so that direct, real-time, point-to-point video communication can take place between a customer and the representative (col. 3, lines 26-27; col. 4, lines 25-28; moving pictures are communicated via AT&T 2500 video telephone sets, col. 1, lines 27-28) such that it would have been obvious to an artisan of ordinary skill to incorporate such dynamic, full-motion video communication, as taught by Smith, within the system of D'Agostino in order to provide a real-time video as well as audio communication between the customer and representative. In this way, a more realistic face-to-face meeting can take place.

Regarding claim 110, Smith provides for a dynamic video source and database 6.

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Regarding claim 111, D'Agostino provides for a printer 28 and printer 50.

4. Claims 112-113 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of D'Agostino and Smith as applied to claim 97 above, and further in view of Ando et al. (US 4,888,795, hereinafter "Ando").

The combination differs from claims 112-113 in that it does not specify the video being freeze-frame or high resolution. However, Ando teaches the desirability of providing the option of transmitting a single frame, high resolution video signal (such as when a text document is to be transmitted for clear viewing) or a full-motion, low resolution video signals (such as when face-to-face communication is desired) (Abstract; col. 1, line 24 - col. 3, line 35; col. 4, line 31 - col. 5, line 9; col. 7, line 39 - col. 8, line 3). It would have been obvious to an artisan of ordinary skill to incorporate the use of freeze-frame, high resolution video communication, as taught by Ando, within the combination of D'Agostino and Smith in order to allow for transmission of captured document data which requires a higher resolution than a moving image of the user's face.

5. Claims 130-131 are rejected under 35 U.S.C. 103(a) as being unpatentable over D'Agostino in view of Smith, as applied to claim 97 above, and further in view of Donald et al. (USPN 5,053,956, hereinafter "Donald") for the same reasons applied to claims 52-53 in the Office action mailed May 8, 2001 and repeated below.

The combination of D'Agostino and Smith differs from claims 130-131 in that although it provides for displaying products to the customer (Smith, col. 2, lines 65-68), it does not specify

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an inventory control system. However, Donald teaches the desirability of coupling an interactive video display system with an inventory control system (col. 7, lines 3-9; col. 9, line 61 - col. 10, line 4) so that a customer can view products along with the number available in stock such that it would have been obvious to an artisan of ordinary skill to incorporate such coupling with an inventory control system, as taught by Donald, within the combination of D'Agostino and Smith so that the customer can be apprised of availability while the seller's inventory database is kept current as items are purchased.

Response to Arguments

6. Applicant's arguments filed September 26, 2002 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Applicant argues that "D'Agostino lacks disclosure of communicating a dynamic, full-motion video." However, the examiner relied upon Smith for its teaching of a dynamic, full-motion video.

Applicant further argues that "the claims require a communication system (central system) for selectively enabling video communications..." However, the entire system of D'Agostino can be considered as the "communication system" which allows for communication

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between one of a plurality of representative terminals and one of a plurality of customer terminals.

Regarding the format switch, the representative terminal keyboard of D'Agostino can be considered as a "format switch" to the extent required by the claims in that it is used by the representative to establish a data link with the customer terminal and to effect video communication in either video image display mode or menu display mode (col. 6, lines 44-61).

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. **Any response to this final action should be mailed to:**

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Box AF

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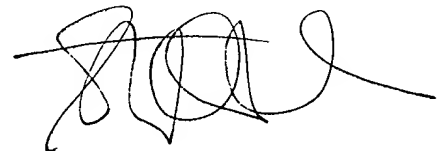
Washington, D.C. 20231

or faxed to:

(703) 872-9314; (for formal communications, please mark "EXPEDITED
PROCEDURE"; and for informal or draft communications, please label
"PROPOSED" or "DRAFT").

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella Woo whose telephone number is (703) 305-4395. Any general inquiries should be directed to the Customer Service Office at (703) 306-0377.

December 2, 2002

A handwritten signature in black ink, appearing to be 'Stella Woo', with a stylized, cursive script.

**STELLA WOO
PRIMARY EXAMINER**